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10 **UNITED STATES DISTRICT COURT**
EASTERN DISTRICT OF WASHINGTON
11 **AT RICHLAND**

12 STATE OF WASHINGTON, et al.,

13 Plaintiffs,

14 v.

15 UNITED STATES DEPARTMENT
OF HOMELAND SECURITY, a
16 federal agency, et al.

17 Defendants.

NO. 4:19-cv-05210-RMP

ORDER GRANTING PLAINTIFF
STATES' MOTION FOR § 705
STAY PENDING JUDICIAL
REVIEW OR FOR PRELIMINARY
INJUNCTION

[PROPOSED]

NOTED FOR: OCTOBER 3, 2019
With Oral Argument at 10:00 a.m.

18 This matter came before the Court on Plaintiff States' Motion for § 705
19 Stay Pending Judicial Review or for Preliminary Injunction. The Court has
20 considered all of the following:
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1 1. Plaintiff States' Motion for § 705 Stay Pending Judicial Review or
2 for Preliminary Injunction (ECF No. _____) with supporting declarations and
3 exhibits;

4 2. Defendants' Response to Plaintiff States' Motion for § 705 Stay
5 Pending Judicial Review or for Preliminary Injunction (ECF No. _____);

6 3. Plaintiff States' Reply in Support of Motion for § 705 Stay Pending
7 Judicial Review or for Preliminary Injunction (ECF No. _____); and

8 4. The entire record in the above-captioned matter.

9 Being fully apprised of the matter, now, therefore, it is hereby

10 ORDERED, ADJUDGED, AND DECREED that Plaintiff States' Motion
11 for § 705 Stay Pending Judicial Review or for Preliminary Injunction is hereby
12 GRANTED.

13 The Court finds that the Plaintiff States have established a likelihood of
14 success on the merits of its claims under the Administrative Procedure Act, that
15 they would suffer irreparable harm absent preliminary injunctive relief, and that
16 the balance of equities and the public interest weigh in favor of an injunction.

17 The Court therefore, pursuant to 5 U.S.C. § 705, hereby STAYS the
18 implementation of the U.S. Department of Homeland Security's (DHS) Rule
19 entitled *Inadmissibility on Public Charge Grounds*, 84 Fed. Reg. 41,292
20 (August 14, 2019) in its entirety, pending entry of a final judgment on the
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1 Plaintiff States’ APA claims. The effective date of the Final Rule is
2 POSTPONED pending conclusion of these review proceedings.

3 Furthermore, the Court hereby GRANTS a nationwide preliminary
4 injunction against the implementation of the Rule. The Court finds that any
5 injunction must apply universally to workably maintain the status quo and
6 adequately protect the Plaintiff States from irreparable harm. If it were to take
7 effect, the Final Rule would irreparably injure the Plaintiff States’ public health,
8 education, and social welfare systems by, inter alia, causing immigrants and their
9 families to disenroll from—or forego enrollment in—critical public assistance
10 programs, including Medicaid, SNAP, and Section 8 housing assistance. Those
11 “chilling effects” would cause significant and uncompensable costs to the
12 Plaintiff State and have devastating consequences for the health and welfare of
13 their residents.

14 Limiting the scope of the injunction to the 14 Plaintiff States would not
15 prevent those harms to the Plaintiff States, for several reasons. First, any
16 immigrant residing in one of the Plaintiff States who may in the future wish move
17 to another state not among them would be deterred from accessing public benefits
18 if relief were limited in geographic scope. Second, a geographically limited
19 injunction could spur immigrants now living elsewhere to move to one of the
20 Plaintiff States, compounding their economic injuries to accommodate a surge in
21 social services enrollees. Third, if the injunction applied only in the 14 Plaintiff
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1 States, a lawful permanent resident returning to the United States from a trip
2 abroad of more than 180 days would be subject to DHS’s new Public Charge
3 Rule at a point of entry. Therefore, the scope of the injunction must be universal
4 to afford the Plaintiff States the relief to which they are entitled. *See, e.g.,*
5 *California v. Azar*, 911 F.3d 558, 582 (9th Cir. 2018) (“Although there is no bar
6 against nationwide relief in federal district court . . . such broad relief must be
7 *necessary* to give prevailing parties the relief to which they are entitled.”)
8 (internal quotation marks and citation omitted).

9 Additionally, the Court finds that a broad injunction is necessary to ensure
10 “uniformity in immigration policy.” *Regents of the Univ. of Cal. v. U.S. Dep’t of*
11 *Homeland Sec.*, 908 F.3d 476, 511 (9th Cir. 2018). “Congress has instructed that
12 the immigration laws of the United States should be enforced vigorously and
13 *uniformly*; and the Supreme Court has described immigration policy as a
14 comprehensive and *unified* system.” *Id.* (citations and internal quotation marks
15 omitted). An injunction limited to the 14 Plaintiff States would create a
16 patchwork immigration regime in which DHS’s longstanding former policies
17 guiding public charge determinations would apply in more than one-fourth of the
18 states (or more, depending on the preliminary relief issued by other courts in
19 related cases), while its new Public Charge Rule would apply elsewhere. Even
20 assuming Defendants could effectively administer such a dual system, it would
21 necessarily entail applying vastly different adjudicatory standards to similarly
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1 situated applicants for visas or green cards, based solely on the state in which
2 they reside. Creating such an arbitrary, two-tiered immigration system—even as
3 a temporary measure—would be unjust and impractical, and thus inconsistent
4 with this Court’s duties in exercising its equitable powers.

5 Finally, the Court declines to limit the injunction to apply only in those
6 states within the U.S. Court of Appeals for the Ninth Circuit. In addition to the
7 reasons discussed above, a Ninth Circuit-only injunction would deprive 11 of the
8 14 Plaintiff States any relief at all. Those states—Colorado, Delaware, Illinois,
9 Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico
10 Rhode Island, and Virginia—are located in four other judicial circuits (the First,
11 Third, Fourth, Seventh, Eighth, and Tenth Circuits) and would thus derive no
12 benefit whatsoever from relief limited to jurisdictions within the Ninth Circuit.

13 Thus, pursuant to Rule 65(a) of the Federal Rules of Civil Procedure,
14 Defendants and their officers, agents, servants, employees, and attorneys, and any
15 person in active concert or participation with them, are hereby
16 PRELIMINARILY ENJOINED from implementing or enforcing the Rule
17 entitled *Inadmissibility on Public Charge Grounds*, 84 Fed. Reg. 41,292
18 (August 14, 2019), in any manner or in any respect, and shall preserve the status
19 quo pursuant to the regulations promulgated under 8 C.F.R. Parts 103, 212–14,
20 245, and 248, in effect as of the date of this order, until further order of the Court.

No bond shall be required pursuant to Federal Rule of Civil Procedure 65(c).

It is SO ORDERED.

ISSUED this _____ day of _____, 2019.

THE HONORABLE ROSANNA MALOUF PETERSON

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